

House File 2317 - Introduced

HOUSE FILE _____
BY BAUDLER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to sex offenders by modifying criminal penalties
2 for certain offenses involving sexual abuse in the second
3 degree, lascivious acts with a child, and sexual exploitation,
4 establishing a duty to inform law enforcement about a
5 registered sex offender, modifying residency restrictions,
6 establishing safety zones, providing sex offender information
7 to the public, and classifying criminal offenses that require
8 sex offender registration.
9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
10 TLSB 5946YH 82
11 jm/rj/14

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1 1 Section 1. Section 692A.2, subsection 6, Code 2007, is
1 2 amended to read as follows:
1 3 6. A person is not required to register while
1 4 incarcerated, in foster care, or in a residential treatment
1 5 program. However, if a person in a residential treatment
1 6 program is enrolled and attending a public or nonpublic
1 7 elementary or secondary school, the person shall register as
1 8 required by this chapter.
1 9 6B. A person who is convicted, as defined in section
1 10 692A.1, of a criminal offense against a minor, sexual
1 11 exploitation, a sexually violent offense, or an other relevant
1 12 offense as a result of adjudication of delinquency in juvenile
1 13 court shall be required to register as required in this
1 14 chapter unless the juvenile court finds that the person should
1 15 not be required to register under this chapter. If a juvenile
1 16 is required to register and the court later modifies the order
1 17 regarding the requirement to register, the court shall
1 18 immediately notify the department.
1 19 6C. Convictions of more than one offense which require
1 20 registration under this chapter but which are prosecuted
1 21 within a single indictment shall be considered as a single
1 22 offense for purposes of registration.
1 23 Sec. 2. NEW SECTION. 692A.3B PRESENCE ON THE REAL
1 24 PROPERTY WHERE CHILDREN ARE PRESENT == SAFETY ZONES.
1 25 1. RESTRICTION. A person required to register under this
1 26 chapter who has been convicted of a criminal offense against a
1 27 minor, or an offense involving a minor that is an aggravated
1 28 offense, sexually violent offense, or other relevant offense,
1 29 shall not be knowingly present on the real property comprising
1 30 a public or nonpublic elementary or secondary school, child
1 31 care facility, public park, library, video arcade, or public
1 32 swimming pool unless subsection 2 or 3 applies or any of the
1 33 following apply:
1 34 a. The person is transporting a minor who is a child of
1 35 the person to or from the school or child care facility.
2 1 b. The person is attending a parent=teacher conference
2 2 regarding a minor who is a child of the person.
2 3 c. The person has been summoned to discuss the academic or
2 4 social progress of a minor who is a child of the person.
2 5 d. The person is voting at the school or child care
2 6 facility during the hours designated to vote.
2 7 e. The person is present at a public park, library, video
2 8 arcade, or public swimming pool with a minor who is the child
2 9 of the person.
2 10 2. SCHOOL OR CHILD CARE FACILITY EXCEPTION. If the person
2 11 intends to be present at a public or nonpublic elementary or
2 12 secondary school or child care facility for any other reason
2 13 not enumerated in subsection 1, the person shall first notify

2 14 the administrative offices of the public or nonpublic
2 15 elementary or secondary school or child care facility that the
2 16 person intends to be present on the real property comprising
2 17 the school or child care facility, and the person shall
2 18 receive written permission from the school or child care
2 19 facility prior to entering onto the real property comprising
2 20 the school or child care facility.

2 21 3. PUBLIC PARK, LIBRARY, VIDEO ARCADE, OR PUBLIC SWIMMING
2 22 POOL EXCEPTION. If the person intends to be present at a
2 23 public park, library, video arcade, or public swimming pool
2 24 for any other reason not enumerated in subsection 1, the
2 25 person shall first notify the administrative offices of the
2 26 public park, library, video arcade, or public swimming pool
2 27 that the person intends to be present on the real property
2 28 comprising the public park, library, video arcade, or public
2 29 swimming pool, and the person shall receive written permission
2 30 from administrative offices of the public park, library, video
2 31 arcade, or public swimming pool prior to entering onto the
2 32 real property comprising the public park, library, video
2 33 arcade, or public swimming pool. Written permission received
2 34 pursuant to this subsection permits entry onto the real
2 35 property until such time as the administrative office revokes
3 1 the written permission.

3 2 4. PENALTY. A person who commits a violation of this
3 3 section commits an aggravated misdemeanor.

3 4 Sec. 3. Section 692A.5, subsection 1, paragraph h, Code
3 5 2007, is amended by striking the paragraph and inserting in
3 6 lieu thereof the following:

3 7 h. Inform the person of restrictions for being present on
3 8 real property comprising a public or nonpublic school, child
3 9 care facility, public park, library, video arcade, or public
3 10 swimming pool.

3 11 Sec. 4. NEW SECTION. 692A.7A DUTY TO INFORM LAW
3 12 ENFORCEMENT == PENALTY.

3 13 A person commits a class "D" felony if the person knows
3 14 that another person is required to register under this chapter
3 15 and that the other person is not in compliance with this
3 16 chapter or is eluding a law enforcement agency that is seeking
3 17 to find the other person, and the person does any of the
3 18 following acts:

3 19 1. Withholds information from or fails to notify a law
3 20 enforcement agency about the whereabouts of the other person.

3 21 2. Provides materially false information to a peace
3 22 officer about the other person.

3 23 3. Harbors the other person.

3 24 4. Conceals the other person.

3 25 Sec. 5. Section 692A.13, subsection 1, paragraph b, Code
3 26 2007, is amended to read as follows:

3 27 b. The general public, if a peace officer of the
3 28 department knows the offender is required to register, or
3 29 through the sex offender registry's web page, except that
3 30 relevant information about an offender who was under twenty
3 31 years of age at the time the offender committed a violation of
3 32 section 709.4, subsection 2, paragraph "c", subparagraph (4),
3 33 shall not be disclosed on the web page.

3 34 Sec. 6. Section 902.9, unnumbered paragraph 1, Code 2007,
3 35 is amended to read as follows:

4 1 The maximum sentence for any person convicted of a felony
4 2 shall be that prescribed by statute or, if not prescribed by
4 3 statute, if other than a class "A" or class "B1" felony shall
4 4 be determined as follows:

4 5 Sec. 7. NEW SECTION. 902.9A CLASS "B1" FELONS.

4 6 A person convicted of a class "B1" felony shall be confined
4 7 for a term of years as ordered by the court at the time of
4 8 sentencing. The minimum term of confinement shall be twenty=
4 9 five years and the maximum term of confinement may be for the
4 10 rest of the defendant's life.

4 11 Sec. 8. NEW SECTION. 902.15 SEXUAL ABUSE, LASCIVIOUS
4 12 ACTS, OR SEXUAL EXPLOITATION == ENHANCEMENT.

4 13 Notwithstanding the penalty for a violation of section
4 14 709.3, 709.8, or 728.12, if a person eighteen years of age or
4 15 older commits an offense against a child twelve years of age
4 16 or younger in violation of section 709.3, 709.8, or 728.12,
4 17 subsection 1, the person commits a class "B1" felony and shall
4 18 be denied parole or work release until the term of the
4 19 sentence ordered pursuant to section 902.9A has been served.

4 20 Sec. 9. Section 903A.2, subsection 1, unnumbered paragraph
4 21 1, Code 2007, is amended to read as follows:

4 22 Each inmate committed to the custody of the director of the
4 23 department of corrections is eligible to earn a reduction of
4 24 sentence, except as provided in paragraph "c", in the manner

4 25 provided in this section. For purposes of calculating the
4 26 amount of time by which an inmate's sentence may be reduced,
4 27 inmates shall be grouped into the following ~~two~~ three
4 28 sentencing categories:
4 29 Sec. 10. Section 903A.2, subsection 1, Code 2007, is
4 30 amended by adding the following new paragraph:
4 31 NEW PARAGRAPH. c. Category "C" sentences are those
4 32 sentences which are classified as class "B1" felonies under
4 33 section 902.15. An inmate of an institution under the control
4 34 of the department of corrections who is serving a category "C"
4 35 sentence is not eligible for a reduction of sentence.
5 1 Sec. 11. Section 903A.7, Code 2007, is amended to read as
5 2 follows:
5 3 903A.7 SEPARATE SENTENCES.
5 4 Consecutive multiple sentences that are within the same
5 5 category under section 903A.2 shall be construed as one
5 6 continuous sentence for purposes of calculating reductions of
5 7 sentence for earned time. If a person is sentenced to serve
5 8 sentences of ~~both~~ multiple categories, category "C" sentences
5 9 shall be served before category "B" or "A" sentences are
5 10 served, category "B" sentences shall be served before category
5 11 "A" sentences are served, and earned time accrued against the
5 12 category "B" sentences shall not be used to reduce the
5 13 category "A" sentences. If an inmate serving a category "A"
5 14 sentence is sentenced to serve either a category "C" or "B"
5 15 sentence, the category "A" sentence shall be interrupted, and
5 16 no further earned time shall accrue against that sentence
5 17 until the category "C" or "B" sentence is completed.
5 18 Sec. 12. Section 903B.1, Code 2007, is amended to read as
5 19 follows:
5 20 903B.1 SPECIAL SENTENCE == CLASS "B1", CLASS "B", OR CLASS
5 21 "C" FELONIES.
5 22 A person convicted of a class "C" felony or greater offense
5 23 under chapter 709, ~~or~~ a class "C" felony under section 728.12,
5 24 or a class "B1" felony under section 902.15, shall also be
5 25 sentenced, in addition to any other punishment provided by
5 26 law, to a special sentence committing the person into the
5 27 custody of the director of the Iowa department of corrections
5 28 for the rest of the person's life, with eligibility for parole
5 29 as provided in chapter 906. The special sentence imposed
5 30 under this section shall commence upon completion of the
5 31 sentence imposed under any applicable criminal sentencing
5 32 provisions for the underlying criminal offense and the person
5 33 shall begin the sentence under supervision as if on parole.
5 34 The person shall be placed on the corrections continuum in
5 35 chapter 901B, and the terms and conditions of the special
6 1 sentence, including violations, shall be subject to the same
6 2 set of procedures set out in chapters 901B, 905, 906, and
6 3 ~~chapter~~ 908, and rules adopted under those chapters for
6 4 persons on parole. The revocation of release shall not be for
6 5 a period greater than two years upon any first revocation, and
6 6 five years upon any second or subsequent revocation. A
6 7 special sentence shall be considered a category "A" sentence
6 8 for purposes of calculating earned time under section 903A.2.
6 9 Sec. 13. Section 907.3, subsection 1, paragraph a, Code
6 10 2007, is amended to read as follows:
6 11 a. The offense is a violation of section 709.8 or section
6 12 728.12, subsection 1, and the child is twelve years of age or
6 13 under.
6 14 Sec. 14. Section 692A.2A, Code 2007, is repealed.
6 15 Sec. 15. ADAM WALSH CHILD PROTECTION AND SAFETY ACT ==
6 16 COMPLIANCE. The department of public safety, in anticipation
6 17 of the state complying with the federal Adam Walsh Child
6 18 Protection and Safety Act, shall review all the criminal
6 19 offenses requiring registration under chapter 692A and
6 20 classify each offense requiring registration as a tier I, tier
6 21 II, or tier III offense. The department, no later than
6 22 January 15, 2009, shall provide a report classifying the
6 23 criminal offenses into the tiers to the chairpersons and
6 24 ranking members of the senate and house standing committees on
6 25 judiciary and the house standing committee on public safety
6 26 committee, and the legislative services agency.
6 27 Sec. 16. IMPLEMENTATION OF ACT. Section 25B.2, subsection
6 28 3, shall not apply to this Act.
6 29 EXPLANATION
6 30 This bill relates to sex offenders by modifying the
6 31 criminal penalties for sexual abuse in the second degree,
6 32 lascivious acts with a child, and sexual exploitation,
6 33 requiring a duty to inform law enforcement about a sex
6 34 offender required to register, modifying residency
6 35 restrictions, establishing safety zones, providing sex

7 1 offender information to the public, and classifying criminal
7 2 offenses that require sex offender registration.

7 3 The bill requires a person in a residential treatment
7 4 program who is enrolled and attending a public or nonpublic
7 5 elementary or secondary school, shall register as a sex
7 6 offender. Currently, a person in a residential treatment
7 7 program is not required to register while in the program.

7 8 The bill provides that a registered sex offender who has
7 9 been convicted of a criminal offense against a minor, or an
7 10 offense involving a minor that is an aggravated offense,
7 11 sexually violent offense, or other relevant offense, shall not
7 12 be present on the real property comprising a public or
7 13 nonpublic elementary or secondary school, child care facility,
7 14 or public park, library, video arcade, or public swimming
7 15 pool. However, the bill provides exceptions: (1) a sex
7 16 offender may be present on school or child care facility
7 17 property if the sex offender is transporting the offender's
7 18 child to or from school or a child care facility, the offender
7 19 is attending a parent-teacher conference, the sex offender is
7 20 summoned to discuss the academic or social progress of the
7 21 offender's child, the sex offender is voting in an election
7 22 during the designated hours to vote, or the sex offender is
7 23 present at a public park, library, video arcade, or public
7 24 swimming pool with a minor who is the child of the person; (2)
7 25 if a sex offender is to be present on the real property of a
7 26 school or child care facility for any other reason, the
7 27 offender must first receive written permission from the
7 28 administrative offices of the school or child care facility
7 29 prior to entering onto the property; (3) if the sex offender
7 30 is to be present on the real property comprising a public
7 31 park, library, video arcade, or public swimming pool for any
7 32 other reason, the offender must first receive written
7 33 permission from the administrative offices of the public park,
7 34 library, video arcade, or public swimming pool prior to
7 35 entering onto the property.

8 1 If a person receives written permission to enter onto the
8 2 real property of a public park, library, video arcade, or
8 3 public swimming pool under the bill, the permission to enter
8 4 onto such property permits entry onto the property until such
8 5 time as the administrative office revokes the written
8 6 permission.

8 7 The bill also repeals Code section 692A.2A, which prohibits
8 8 certain sex offenders from residing within 2,000 feet of a
8 9 school or child care facility under most circumstances.

8 10 A person who violates the presence restrictions created in
8 11 the bill commits an aggravated misdemeanor.

8 12 The bill provides that a person commits a class "D" felony
8 13 if a person knows that a registered sex offender is not in
8 14 compliance with the sex offender registry Code chapter,
8 15 chapter 692A, or is eluding a law enforcement agency and does
8 16 any of the following: withholds information from or fails to
8 17 notify a law enforcement agency about the whereabouts of the
8 18 sex offender; provides materially false information to a peace
8 19 officer about the sex offender; or harbors or conceals a sex
8 20 offender.

8 21 The bill enhances the criminal penalties, by creating a new
8 22 class "B1" felony category, for sexual abuse in the second
8 23 degree (Code section 709.3), lascivious acts with a child
8 24 (Code section 709.8), and sexual exploitation of a minor (Code
8 25 section 728.12, subsection 1), for a person 18 years of age or
8 26 older who commits an offense against a child 12 years of age
8 27 or younger. A class "B1" felony is punishable by a minimum
8 28 term of confinement of 25 years and a maximum term of
8 29 confinement that may be for the rest of the person's life. A
8 30 person serving a class "B1" felony is not eligible to receive
8 31 earned time. A class "B1" felon is also not eligible for
8 32 parole or work release.

8 33 The bill also provides that a person serving a class "B1"
8 34 sentence shall also serve a special sentence as provided in
8 35 Code section 903B.1. The special sentence provides, in
9 1 addition to any other punishment provided by law, that a
9 2 person be committed to the custody of the director of the Iowa
9 3 department of corrections for the rest of the person's life,
9 4 with eligibility for parole as provided in Code chapter 906.
9 5 Under the bill, the special sentence imposed shall commence
9 6 upon completion of the class "B1" felony sentence imposed and
9 7 the person shall begin the sentence under supervision as if on
9 8 parole. The bill provides the person shall be placed on the
9 9 corrections continuum in Code chapter 901B, and the terms and
9 10 conditions of the special sentence, including violations,
9 11 shall be subject to the same set of procedures set out in Code

9 12 chapters 901B, 905, 906, and 908, and rules adopted under
9 13 those chapters for persons on parole. The bill provides that
9 14 if such a person violates the conditions of release, the
9 15 revocation of release shall not be for a period greater than
9 16 two years upon any first revocation, and five years upon any
9 17 second or subsequent revocation. A person serving a special
9 18 sentence under the bill may be discharged early from the
9 19 sentence by the board of parole in the same manner as a person
9 20 on parole.
9 21 The bill also prohibits a person from receiving a suspended
9 22 sentence, deferred sentence, or deferred judgment, if the
9 23 person commits sexual exploitation of a minor involving a
9 24 child who is 12 years of age or younger. Current law
9 25 prohibits a person committing any sexual abuse in the second
9 26 degree or lascivious acts with a child involving a child 12
9 27 years of age or younger from receiving a suspended sentence,
9 28 deferred sentence, or deferred judgment.
9 29 The bill permits a peace officer of the department of
9 30 public safety to inform the general public of a person
9 31 required to register as a sex offender if the peace officer
9 32 knows the person is required to register. Current law
9 33 provides that the department notify the general public through
9 34 the sex offender registry's web page maintained by the
9 35 department.
10 1 The bill requires the department of public safety, in
10 2 anticipation of the state complying with the federal Adam
10 3 Walsh Child Protection and Safety Act, to review all criminal
10 4 offenses requiring sex offender registration under Code
10 5 chapter 692A and classify each offense requiring registration
10 6 as a tier I, tier II, or tier III offense.
10 7 The bill may include a state mandate as defined in Code
10 8 section 25B.3. The bill makes inapplicable Code section
10 9 25B.2, subsection 3, which would relieve a political
10 10 subdivision from complying with a state mandate if funding for
10 11 the cost of the state mandate is not provided or specified.
10 12 Therefore, political subdivisions are required to comply with
10 13 any state mandate included in the bill.
10 14 LSB 5946YH 82
10 15 jm/rj/14